

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES	)	
	)	
	)	CRIMINAL NO. 05-30023-MAP
v.	)	
	)	
WALTER T. MAY,	)	
Defendant.	)	

GOVERNMENT'S RESPONSE TO DEFENDANT'S  
MOTION TO RECONSIDER REGARDING SPEEDY TRIAL

The government submits the following response to the defendant's Motion to Reconsider regarding the Court's March 16, 2007 Order regarding excludable delay. The government relies on the following in support thereof.

On February 27, 2007, over the government's objection, the Magistrate Judge allowed Attorney Alan Black to withdraw and also allowed Attorney Mitchell Nelson to file an appearance. During motion arguments that day Attorney Nelson said that he had not received any discovery from Attorney Black and had not otherwise reviewed any discovery in this case. The discovery in this case is extensive. The case was continued for a Pretrial Conference before this Court on March 15, 2007. The government moved orally for the exclusion of time between February 27, 2007 and March 15, 2007 pursuant to 18 U.S.C. § 3161(h)(8)(A) in order that new defense counsel be able to review discovery to determine whether substantive motions would be filed. The defendant objected to the exclusion of time and the Magistrate Judge denied the government's oral motion for exclusion of time.

The government then filed a written Motion for Order of Excludable Delay or Earlier Pretrial Conference. This Court allowed the government's motion and excluded the relevant time from the speedy trial calculation. The defendant has moved for reconsideration. The government's position is that the exclusion of time was warranted by this Court. Defense counsel would be per se ineffective if he did not review the discovery material prior to the Pretrial Conference on March 15, 2007 in order to be able to inform the Court whether he would be filing substantive motions. Therefore, this Court was justified in finding that the interests of justice outweighed the need for a speedy trial so that new counsel could review discovery.

Respectfully submitted,

MICHAEL J. SULLIVAN  
United States Attorney

/s/ Todd E. Newhouse  
TODD E. NEWHOUSE  
Assistant United States Attorney

CERTIFICATE OF SERVICE

Hampden, ss.

Springfield, Massachusetts  
April 12, 2007

I, Todd E. Newhouse, Assistant U.S. Attorney, do hereby certify that I have served a copy of the foregoing, via ECF notification to all counsel of record.

/s/ Todd E. Newhouse  
TODD E. NEWHOUSE  
Assistant U.S. Attorney